

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8804 of 2020

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Manoj Sharma, S/o- Bigalal Sharma, Resident of Village- Bhaluahi, P.O. and
P.S.- Nokha, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Excise Department, Govt. of Bihar, Patna.
2. The District Magistrate Rohtas (Sasaram).
3. The Senior Superintendent of Police, Rohtas.
4. The Assistant Commissioner Excise Rohtas (Sasaram).
5. The Officer In- Charge Nokha, Police Station, District- Rohtas (Sasaram).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rama Kant Singh, Advocate

For the Respondent/s : Mr. Kumar Manish, SC 5

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

(The proceedings of the Court are being conducted through Video Conferencing and the Advocates joined the proceedings through Video Conferencing)

Date : 05-11-2020

Heard the parties.

Petitioner has prayed for following relief:-

“(a) That this is an application for issuance of appropriate writ (s)/direction(s) to the respondent for release of the Kirana Shop in the name of owner of the Kirana Shop namely (Manoj Sharma) of the present petitioner which is situated at village Bhaluahi, P.S. Nokha in the District of Rohtas (Sasaram) which has been seized in Nokha P.S. Case No. 280/2016 on 05.12.2016 for the offence



punishable u/ss. 272, 273 & 30(K) (gh) and 37 (b) of the Bihar Prohibition and Excise Act 2016 passed by the learned court of District Magistrate, Rohtas (Sasaram). The above said F.I.R. has been instituted against the tenant of the Kirana Shop namely Rakesh Ranjan Kumar.”

Petitioner claims to be owner of the shop which was let out to Rakesh Ranjan Kumar in which he was running a Kirana Shop and it is alleged that said Rakesh Ranjan Kumar was involved in illicit liquor trade from said shop and police had recovered illicit liquor from the Kirana Shop for which FIR was instituted against said tenant Rakesh Ranjan Kumar bearing Nokha P.S. Case No. 280 of 2016 dated 05.12.2016 u/ss. 272, 273 & 30(K) (gh) and 37 (b) of the Bihar Prohibition and Excise Act 2016.

Rakesh Ranjan Kumar had earlier filed writ petition bearing C.W.J.C No. 14117 of 2018 for unsealing of his Kirana Shop which was confiscated by order dated 22.05.2017 passed in Confiscation Case No. 19 of 2017 and this court by order dated 01.08.2018 directed the District Magistrate-cum-Confiscating Authority to unseal the shop and possession handed over to the petitioner on the petitioner furnishing original title deed of the property in question and two local sureties to the satisfaction of District Magistrate, Rohtas and further undertaking not to alienate or deal with the property in



question or create a third party interest. The property was directed to be unsealed and possession handed over to the petitioner within a period of one week from the date of furnishing of the original title deed and sureties.

Said Rakesh Ranjan again filed C.W.J.C No. 14117 of 2018 for setting aside the order dated 22.05.2017 passed by District Magistrate, Rohtas (Sasaram) in Excise Confiscation Case No. 19 of 2017 by which Kirana Shop of the petitioner was confiscated which was disposed of in terms of the order dated 18.01.2020 passed in C.W.J.C No. 3245 of 2017 (Manish Kumar Chaudhary Vs. State of Bihar and another). However, the shop still remain sealed as tenant is not taking any interest to unseal the shop.

The confiscation proceeding for confiscation of shop is initiated against the owner of the shop and not the tenant. In present case confiscation proceeding was initiated against the tenant and final order has also been passed against him. However, no appeal has been preferred by the tenant, as such, petitioner prays that he should be permitted to file an appeal before the Appellate Authority.

The writ petition is disposed of with liberty to petitioner to file an appeal within 60 days before the Appellate Authority,



with ownership documents of sealed shop and the Appellate Authority shall decide the appeal on merit after condoning the delay in filing appeal within 60 days from the date of filing of such appeal.

(Sanjay Karol, CJ)

(S. Kumar, J)

Rajiv/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	NA

